

Cyberlaw - Spring 2008
Law 276.1 & Info 235
Room 202, South Hall
Thursday, 3:30-6:30

Format:

Class will meet once a week for three hours, with a 15-20 minute break scheduled roughly at the midpoint of each session. With the exception of occasional and brief lectures to introduce new topics, the class will rely on discussion.

While weekly participation from all students is encouraged, each week a small group of students will be "on call" and bear primary responsibility for moving the discussion forward. In addition, each student is responsible for posting weekly comments on the assigned readings to the class wiki. Comments should be in the 300 word range and posted no later than 5 pm the Wednesday prior to each class.

Grading:

Each student will be required to write a paper, approximately 25-35 pages, on a topic related to those covered during the semester. Each student will also be required to submit an outline of their proposed final paper at least one month prior to the paper due date.

The outline will not be graded, but the final paper will constitute 75% of the final grade. The remaining 25% of the course grade will be based on class participation.

Instructors:

Aaron Perzanowski
Berkeley Center for Law & Technology
aperzanowski@law.berkeley.edu
510.643.5518

Brian W. Carver
Fenwick & West LLP
bcarver@fenwick.com
415.875.2420

Office hours will be arranged by appointment.

Casebook:

Lemley, Menell, Merges & Samuelson, *Software and Internet Law* (3rd Ed.), Aspen Publishing, 2006 ("SAIL").

Class Schedule:

Jan. 24 - Introduction

- Lawrence Lessig, *The Law of the Horse*, 113 Harv. L. Rev. 501 (1999)
<http://cyber.law.harvard.edu/works/lessig/finalhls.pdf>

Jan. 31 - Indecent Speech on the Internet

- *Reno v. ACLU* - SAIL 869-884
- *Ashcroft v. ACLU* - SAIL 886-894
- *Connection Distributing Co. v. Keisler*
<http://www.ca6.uscourts.gov/opinions.pdf/07a043op-06.pdf>
- *Nitke v. Gonzales*
http://w2.eff.org/legal/cases/Nitke_v_Ashcroft/nitke_v_ashcroft_ruling.pdf

Feb. 7 - The Internet and International Law

- *Welcome to Sealand. Now Bugger Off*
http://www.wired.com/wired/archive/8.07/haven_pr.html
- *League Against Racism and Antisemitism v. Yahoo! Inc.*
<http://www.cdt.org/speech/international/20001120yahooofrance.pdf>
- *Yahoo Inc. v. La Ligue Contre Le Racisme et L'antisemitisme*, SAIL 605-617
- *Do Internet companies need to be regulated to ensure they respect free expression?*
http://www.rsf.org/article.php3?id_article=16110

Feb. 14 - Immunity for Internet Intermediaries

- 47 U.S.C. § 230
<http://www4.law.cornell.edu/uscode/47/230.html>
- *Zeran v. America OnLine, Inc.*, SAIL 859-865
- *Barrett v. Rosenthal*
<http://casp.net/RosenthalSC.html>
- *Blumenthal v. Drudge*, SAIL 865-869
- *Fair Housing Council v. Roommates.com*
www.internetcases.com/library/cases/2007-05-15_fair_housing_v_roommates.pdf

Feb. 21 - Liability for Posting Information Obtained by Others

- *Bartnicki v. Vopper*, SAIL 946-995
- *Pavlovich v. Superior Court*, 29 Cal.4th 262 (2002)
http://www.eff.org/IP/Video/DVDCCA_case/20021125_pavlovich_opinion.pdf
- *DVD-CCA v. Bunner*, 116 Cal.App.4th 241 (6th App. 2004)
http://www.eff.org/IP/Video/DVDCCA_case/20040227_Decision.pdf
- *O'Grady v. Apple*
http://www.eff.org/files/filenode/Apple_v_Does/H028579.pdf

Feb. 28 - Copyright Liability for Internet Intermediaries

- *MGM v. Grokster*
- *Perfect 10 v. Amazon*
- *Perfect 10 v. ccBill*
- *Perfect 10 v. Visa*, dissent
(excerpts forthcoming)

March 6 - Digital Rights Management

- *Sega v. Accolade*, SAIL 126-138
- 17 U.S.C. § 1201
- *Remierdes*, SAIL 788-805
- *Lexmark*, SAIL 808-820
- *Chamberlain v. Skylink*
http://www.eff.org/files/filenode/Chamberlain_v_Skylink/20040831_Skylink_Federal_Circuit_Opinion.pdf

March 13 - DRM, Malware, and Consumer Protection

- J. Alex Halderman & Edward W. Felten, *Lessons from the Sony CD DRM Episode*,
<http://itpolicy.princeton.edu/pub/sonydrm-ext.pdf>
- Deirdre K. Mulligan and Aaron K. Perzanowski, *The Magnificence of the Disaster: Reconstructing the Sony BMG Rootkit Incident*,
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1072229
- *The Recommendation of the Register of Copyrights*
http://www.copyright.gov/1201/docs/1201_recommendation.pdf

March 20 - Consumer Privacy on the Internet

- Guest lecturer: Chris Hoofnagle
- Readings TDB

April 3 - Government Surveillance

- *Steve Jackson Games v. United States Secret Service*
<http://www.sjgames.com/SS/appeal-opinion.html>
- *Warshak v. United States*
<http://www.ca6.uscourts.gov/opinions.pdf/07a0225p-06.pdf>
- *Hepting v. AT&T*
http://www.eff.org/files/filenode/att/308_order_on_mtns_to_dismiss.pdf
- *Verizon* materials

April 10 - Virtual Property

- *Intel Corp. v. Hamidi*
<http://news.findlaw.com/hdocs/docs/intel/intelhamidi630030pn.pdf>
- *eBay v. Bidder's Edge*, SAIL 995-1002
- *CompuServe v. Cyber Promotions*
<http://www.tomwbell.com/NetLaw/Cho6/CompuServe.html>
- *Thrifty-Tel, Inc. v. Bezenek*
<http://www.tomwbell.com/NetLaw/Cho6/Thrifty-Tel.html>
- *Register.com v. Verio* (facts and trespass to chattels section)
<http://www.icann.org/registrars/register.com-verio/decision-23jan04.pdf>
- *Second Life Land Deal Goes Sour*
<http://www.wired.com/gaming/virtualworlds/news/2006/05/70909>

April 17 - Network Neutrality

- *Nuts and Bolts of Network Neutrality*, Ed Felten
<http://itpolicy.princeton.edu/pub/neutrality.pdf>
- *Network Neutrality, Broadband Discrimination*, Tim Wu
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=388863
- *Keeping the Internet Neutral?: Tim Wu and Christopher Yoo Debate*
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=953989
- *Costs of Neutral/Unmanaged IP Networks*, Richard Clarke
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=903433

April 24 - Online Contracting

- *Pro CD v. Zeidenberg*, SAIL 332-337
- *Register.com v. Verio*
<http://www.icann.org/registrars/register.com-verio/decision-23jano4.pdf>
- *Specht v Netscape*, SAIL 341-348
- *Comb v Paypal*
<http://pub.bna.com/eclr/021227.htm>

May 1 - Open Topic

May 16 - Papers due